

SERVICE DATE - LATE RELEASE MAY 5, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 622X)

CSX TRANSPORTATION, INC.--ABANDONMENT
EXEMPTION--IN PIKE COUNTY, OH

Decided: May 5, 2003

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 4.14-mile line of railroad at Teays Industrial Track between milepost CES-0.00 and milepost CES 4.14 in Pike County, OH. Notice of the exemption was served and published in the Federal Register on April 4, 2003 (68 FR 16596-97). The exemption is scheduled to become effective on May 6, 2003.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on April 11, 2003. In the EA, SEA states that the U.S. Fish and Wildlife Service - Ecological Services, Reynoldsburg, OH (USFWS), has determined that the right-of-way lies within the range of the Indiana bat (*Myotis sodalis*), a Federally-listed endangered species, and the timber rattlesnake (*Crotalus horridus*), a species of concern. USFWS states that, if habitats for either species are located within the right-of-way of the line to be abandoned, USFWS recommends various avoidance and impact mitigation measures.¹

Additionally, SEA received a comment from the Pike County Engineer (County Engineer) requesting that CSXT be required to remove two bridges and restore paving at the two road crossing within 6 months of receiving abandonment authority.² In a letter dated April 11, 2003, CSXT requests

¹ SEA initially recommended that CSXT retain its interest in and take no steps to alter the historic integrity of the line until the completion of the section 106 of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA). By letter dated October 23, 2002, the SHPO states that there are no historic properties that would be affected by the proposed abandonment. Therefore, according to SEA, the section 106 condition need not be imposed.

² The EA acknowledged and discussed written comments that had been submitted directly to SEA by the County Engineer. CSXT and the County Engineer have been corresponding with various letters concerning this issue. SEA also noted in the EA that, depending on the outcome of correspondence between the parties, it may deem appropriate to recommend an environmental condition to address the

that the Board refrain from imposing any condition requiring mandatory bridge removal because of the potential for an Ohio entity to purchase the line for use as an industrial track subsequent to CSXT's exercising any abandonment authority granted. CSXT states that, if no agreement is reached, it would voluntarily remove the bridges and repave the road crossings. SEA states that it acknowledges CSXT's voluntary commitment to remove the two bridges and repave the two road crossing if a sale or request for trail use do not occur. Nevertheless, SEA concurs that the two bridges and two crossing could deteriorate and pose public safety concerns if not properly maintained or removed. Therefore, SEA recommends that a condition be imposed requiring that: (1) CSXT maintain the bridges at Bobo Road and Happy Hollow Road, and the road crossings at McCorkle Road and Taylor Hollow Road, at a level sufficient to maintain current levels of public safety. These maintenance activities shall continue until CSXT sells the rail line for industrial track or other uses, or until a request for issuance of a notice of interim trail use (NITU) has been timely filed by a financially responsible sponsor and accepted by CSXT; and (2) as voluntarily offered by the railroad, CSXT shall remove the bridges at Bobo Road and Happy Hollow Road, and restore paving at McCorkle Road and Taylor Hollow Road, if CSXT has not sold the rail line for industrial or other uses, or a NITU request has not been timely filed by a financially responsible entity and accepted by CSXT. Bridge removal and road crossing repaving shall occur within 2 years after the abandonment is consummated.

The recommended conditions will be imposed.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the exemption of the abandonment of the line described above is subject to the conditions that: (1) CSXT consult with the USFWS, Reynoldsburg, OH, to determine if the proposed abandonment could adversely impact the habitat of the Indiana bat (*Myotis sodalis*) or the timber rattlesnake (*Crotalus horridus*) to address avoidance and mitigation measures; and (2)(i) CSXT maintain the bridges at Bobo Road and Happy Hollow Road, and the road crossings at McCorkle Road and Taylor Hollow Road, at a level sufficient to maintain current levels of public safety, and these maintenance activities shall continue until CSXT sells the rail line for industrial track or other uses, or until a request for issuance of a NITU has been timely filed by a financially responsible sponsor and accepted by CSXT; and (ii) as voluntarily offered by the railroad, CSXT shall remove the bridges at Bobo Road and Happy Hollow Road, and restore paving at McCorkle Road and Taylor Hollow

concerns of the County Engineer.

Road, if CSXT has not sold the rail line for industrial or other uses, or a request for issuance of a NITU has not been timely filed a financially responsible entity and accepted by CSXT. Bridge removal and road crossing repaving shall occur within 2 years after the abandonment is consummated.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary